

**REMARKS**

The above amendments and following remarks are responsive to the points raised in the December 2, 2004 final Office Action. Upon entry of the above amendments, Claims 14 and 17 will have been amended, and Claims 14 and 12-26 will be pending. Of the pending claims, Claims 23-26 have been withdrawn from further consideration as being drawn to a non-elected invention. No new matter has been introduced. No issues have been raised that require further consideration or search. Entry and reconsideration are respectfully requested.

**Response to Election/Restriction**

The Examiner, despite Applicants' earlier traversal, has continued the Restriction Requirement between:

**Group I** - Claims 14, and 17-23, drawn to a vibration type driving apparatus, classified in Class 310, Subclass 323.08; or

**Group II** - Claims 24-26, drawn to a resin composition, classified in Class 252, Subclass 511, and

the conditional Election of Species Requirement between:

**Species A**, directed to specific compositions of a resin composition, Claims 18-21; or

**Species B**, directed to a mesophase pitch based carbon fiber exhibiting optically anisotropy, which when heated changes from a liquid phase to a solid phase, Claim 23, in the event Applicants elected the invention of Group I.

Notwithstanding the above Restriction Requirement and Election of Species Requirement, the Examiner, in the June 6, 2004 Office Action, stated that:

Amendment and Request for Reconsideration (37 CFR § 1.116)

“Since applicant has received an action on the merits for the originally presented invention (Group I, Species A), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, Claims 23-26 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.”

As a matter of form, Applicants elected the invention and species of Group I, Species A, which was consistent with the Examiner’s above comments regarding the constructive election by original presentation of Group I, Species A.

Contrary to the Examiner’s further arguments, supporting the Restriction/Election Requirements, the Examiner has not provided any evidence to support his opinion that “the searches would be non-coextensive and divergent and that different art would have to be applied for each invention.” As such, Applicants continue to traverse the Restriction and Election of Species Requirements and thus, request that the Examiner withdraw the Restriction and Election of Species Requirements and examine Claims 14, 17-23, and 24-26 together.

**Response to the Rejections under 35 U.S.C. § 103(a)**

Claims 14, 17, 19, and 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent 5,150,000 to Imasaka et al. (Imasaka) in view of US Patent 5,068,052 to Watanabe et al. (Watanabe). Claims 18, 20, and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Imasaka in view of Watanabe, as applied to Claim 14, and further in view of US Patent 5,380,805 to Tamai et al. (Tamai). Applicants respectfully traverse these rejections.

The Examiner admits that the primary teaching of Imasaka does not teach each feature of the claimed invention and therefore attempts to relay on the secondary teaching of Watanabe to remedy the deficiency of Imasaka. Specifically, the Examiner, in the fifth and sixth paragraphs on Page 5 of the final Office Action, states that:

“Imasaka does not appear to mention that the pitch based carbon fiber is in a ‘mesophase’ state such that it can be called a ‘mesophase pitch based carbon fiber’ ....

Watanabe teaches that allowing carbon fibers to be in a mesophase pitch based state with a degree of liquid crystalline properties (see Claims 4 and 5), has the advantages of providing a resin composition with suitable molding properties (see col. 4, lines 44-48).”

From here, the Examiner concludes, in the seventh paragraph on Page 5 of the final Office Action, that:

“It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the carbon fibers of Imasaka by forming the carbon fibers in a ‘mesophase pitch based’ state, as taught by Watanabe, to positively provide a resin composition with suitable molding properties.”

Imasaka discloses an ultrasonic motor including a stator, a rotor, and a friction material. The friction material of Imasaka being firmly attached to the rotor so as to act as a contact surface between the stator and the rotor. Imasaka discloses a plurality of compositions from which the friction material has been fabricated and subsequently tested on the basis of each composition’s ability to (1) absorb vibration to prevent the production of noise, (2) provide a smooth slipping between the rotor and the stator to produce a stable driving force, (3) resist heat to reduce wear of the contact surfaces to maintain long term performance, and (4) provide a lower hardness with respect to the metallic stator to maintain eliminate stator damage and to provide a constant holding

torque between the stator and rotor when the motor is at rest. As the Examiner has correctly pointed out, the resin composition of the present invention is not a composition disclosed by Imasaka.

The secondary teaching of Watanabe discloses a resin compound formed by dispensing a smectic liquid crystal compound into a crystalline thermoplastic polymer, and discloses that the resin compound in which the liquid crystal compound is contained is easily used for injection molding. The disclosure of Watanabe, however, is quite different than the present invention.

The mesophase pitch carbon fiber, as recited in amended Claim 14, is a carbon fiber made from mesophased pitch which produces a mesophase optically exhibiting anisotropy when pitch is heated and changed from the liquid phase to the solid phase. Mesophase pitch carbon fiber made in this manner, however, does not usually have an attribute of liquid crystal. Even if the reference of Imasaki discloses the use of the resin for the friction material of the ultrasonic motor, the present invention cannot be made on the basis of the reference of Imasaki and Watanabe, either alone or in combination.

A review of tertiary teaching of Tamai reveals that Tamai provides no teaching relating to ultrasonic motors, or related elements, that support the conclusion of obviousness advanced by the Examiner. The Examiner has not pointed out any specific teaching or suggestion in the prior art references of Imasaka, Watanabe, and Tamai, or other specific line of reasoning, that would motivate of ordinary skill in the art, at the time the present invention was made, to further modify the ultrasonic motor of Imasaka, already modified in view of Watanabe, to arrive at the invention recited in dependent Claims 18, 20, and 21.

In view of the above, the vibration type driving apparatus, as recited in Claim 14, is distinguished over Yamasaki and Watanabe, either alone or in combination. Claims 17-22, which depend from Claim 14, are likewise distinguished over Yamasaki, Watanabe, and Tamai, either alone or in combination.

Accordingly, the rejections under 35 U.S.C. § 103(a) over Imasaka in view of Watanabe and Imasaka in view of Watanabe and in further view of Tamai should be withdrawn.

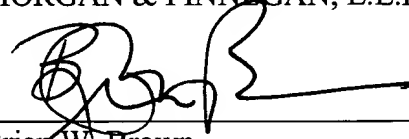
### **CONCLUSION**

Applicant respectfully submits that Claims 14 and 17-22 are in condition for allowance and a notice to that effect is earnestly solicited.

**AUTHORIZATIONS:**

The Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1231-4475US1.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.



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By: \_\_\_\_\_

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